



Paper No. 9

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OFFICE OF PETITIONS

In re Application of
Kuo
Application No. 09/625,214
Filed: July 24, 2000
Attorney Docket No. 11509 B
For: TREADMILL HAVING A CUSHIONED DECK
LIMITING DEVICE

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e) to obtain a filing date for the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice of Incomplete Nonprovisional Application (Notice) mailed on September 13, 2000, which stated that no filing date had been accorded to the papers filed on July 24, 2000 because no drawings were included in the filing. A Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on October 3, 2002.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 31, 2002 (certificate of transmission date October 25, 2002) was granted on January 22, 2003 because petitioner proved that drawings were filed on July 24, 2002 with an itemized date stamped postcard receipt. MPEP 503.

Unfortunately, the application could not be processed on January 22, 2003 because the sheets of drawing figures resubmitted with the petition were transmitted by facsimile and 37 CFR 1.6(d)(4) states that drawings may not be submitted via facsimile

Petitioner has resubmitted the misplaced drawings via mail.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**.

On January 24, 2000, petitioner submitted \$345.00 for the utility application filing fee. A review of Office financial records indicates that the Office retained \$130.00 of the \$345.00 as a handling/processing/retention fee. Since petitioner has proved that the application never went abandoned, this \$130.00 should be applied towards the \$345.00 utility application filing fee. The Office of Initial Patent Examination will mail petitioner a notice detailing financial requirements in due course.

After the mailing of this decision, the application file will be returned to OIPE for further processing with a filing date of July 24, 2000, using the 7 sheets of drawing figures submitted on February 10, 2003.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



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